



CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY



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LINDA S. ADAMS
SECRETARY FOR
ENVIRONMENTAL PROTECTION

ARNOLD SCHWARZENEGGER
GOVERNOR

Certified Mail: 70031680 0000 6167 6964

August 6, 2009

Ms. Jill Pahl, Director
Placer County Environmental Health Division
3091 County Center Drive, Suite 180
Auburn, California 95603

Dear Ms. Pahl:

The California Environmental Protection Agency (Cal/EPA) and California Emergency Management Agency (formerly the Governor's Office of Emergency Services) conducted a program evaluation of the Placer County Environmental Health Certified Unified Program Agency (CUPA) on May 6 and 7, 2009. The evaluation was comprised of an in-office program review and a field oversight inspection by State evaluators. The evaluators completed a Certified Unified Program Agency Evaluation Summary of Findings with your agency's program management staff. The Summary of Findings includes identified deficiencies, a list of preliminary corrective actions, program observations, program recommendations, and example of an outstanding program implementation.

The enclosed Evaluation Summary of Findings is now considered final and based upon review, I find that Placer County Environmental Health's program performance is unsatisfactory with improvement needed. To complete the evaluation process, please submit Deficiency Status Reports to Cal/EPA that depict your agency's progress towards correcting the identified deficiencies. Please submit your Deficiency Status Reports to Mary Wren-Wilson every 90 days after the evaluation date. The first deficiency progress report is due on November 10, 2009.

Thank you for your continued commitment to the protection of public health and the environment through the implementation of your local Unified Program. If you have any questions or need further assistance, you may contact your evaluation team leader or Jim Bohon, Manager, Cal/EPA Unified Program at (916) 327-5097 or by email at jbohon@calepa.ca.gov.

Sincerely,

[Original signed by Don Johnson]

Don Johnson
Assistant Secretary
California Environmental Protection Agency

Enclosure

cc: Please see next page.

Ms. Jill Pahl
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cc sent via email:

Ms. Virginia Lineberry
Supervising Hazardous Materials Specialist (Interim CUPA Manager)
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Ms. Jill Pahl
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cc sent via email:

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Enclosure



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CERTIFIED UNIFIED PROGRAM AGENCY EVALUATION SUMMARY OF FINDINGS

CUPA: PLACER COUNTY ENVIRONMENTAL HEALTH SERVICES

Evaluation Dates: May 6 and 7, 2009

EVALUATION TEAM

Cal/EPA and OSFM: Jennifer Lorenzo

Cal EMA (formerly OES): Jack Harrah

This Evaluation Summary of Findings includes the deficiencies identified during the evaluation, program observations and recommendations, and examples of outstanding program implementation activities. Questions or comments can be directed to Jennifer Lorenzo at (916) 324-0232.

	<u>Deficiency</u>	<u>Corrective Action</u>
1	<p>The CUPA did not conduct a self-audit of its Unified Program in fiscal years (FY) 06/07 and 07/08.</p> <p>This was identified as a deficiency in the 2003 and 2006 evaluations of the CUPA.</p> <p>CCR, Title 27, Section 15280 (a) [Cal/EPA]</p>	<p>At the end of each state fiscal year, the CUPA will conduct a self-audit. Annual self-audits must be completed by September 30 of each year and maintained on file for at least five years.</p> <p>By September 30, 2009, the CUPA will submit its FY 08/09 Self Audit to Cal/EPA and a copy shall be included with the first progress report due November 10, 2009.</p>
2	<p>Based on the Annual Single Fee Summary Reports, for FY 05/06, the CUPA should have billed and collected \$24,234, while only collecting \$23,115.75; for FY 06/07, the CUPA should have billed and collected \$24,642, while only collecting \$22,849; and for FY 07/08, the CUPA should have billed and collected \$38,010, while only collecting \$14,461.</p> <p>In addition:</p> <ul style="list-style-type: none">The CUPA did not assess the appropriate California Accidental Release Prevention (CalARP) state surcharge within the last three FY's. The CUPA began assessing	<p>The CUPA has revised its fee schedule to reflect the correct state surcharges, including the appropriate name for the CalARP surcharge. The CUPA has also sent its annual single fee invoices this month to its regulated facilities. The single fee invoices are due at the end of June for FY 09/10. Based on copies of a few invoices, the CUPA is now assessing the appropriate state surcharges.</p> <p>On the first deficiency progress report, due November 10, 2009, the CUPA will report the status of its FY 09/10 state surcharge collection to Cal/EPA.</p>

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	<p>and collecting the CalARP state surcharges in 2005 and has increasingly assessed and collected the surcharges from its CalARP businesses within the last three FY's. However, according to the CUPA's fee schedule, dated April 2, 2009, the CUPA assessed a state surcharge called "acute haz waste" for \$69 per CalARP business.</p> <ul style="list-style-type: none"> • b. The CUPA did not collect approximately 60% (\$18,711.35) of the CUPA oversight state surcharge assessed in FY 07/08. • The CUPA assessed approximately 130%, 120%, and 150% of the underground storage tank (UST) state surcharge in FY 05/06, 06/07, and 07/08, respectively. According to the CUPA's April 2, 2009, fee schedule, the CUPA has been assessing a state surcharge for the UST program as follows: \$16 for one tank; \$31 for two tanks; \$47 for three tanks; \$62 for four tanks; \$78 for five tanks; \$94 for six tanks; and \$109 for seven tanks. Therefore, the CUPA has not been assessing the appropriate state surcharge for its UST facilities, which should be \$15 per tank. In addition, the CUPA did not collect about 60% (\$4,857.50) of the UST surcharges assessed in FY 07/08. <p>HSC, Chapter 6.11, Section 25404.5 (b)(1); and CCR, Title 27, Sections 15210 (l), 15240 (c), and 15250 (a)(3) and (7) [Cal/EPA]</p>	<p>In addition, the CUPA will assess and submit all uncollected state surcharges for fiscal years 05/06, 06/07, and 07/08.</p> <p>With the first deficiency progress report due November 10, 2009, the CUPA will submit one of the following:</p> <ul style="list-style-type: none"> - A plan for correctly assessing and submitting all applicable state surcharges for fiscal years 05/06, 06/07, and 07/08. <p>Or</p> <ul style="list-style-type: none"> - A financial audit showing why the fees were not required to be assessed and submitted for fiscal years 05/06, 06/07, and 07/08. <p>[Note: As of July 1, 2009, the CUPA's are to begin assessing an additional \$25 per regulated business for the next three fiscal years. The money will be used to fund the statewide electronic reporting of Unified Program information per Assembly Bill 2286 (Feuer), which became effective January 1, 2009. For more information, refer to the Cal/EPA Unified Program Web site on electronic reporting at http://www1.calepa.ca.gov/CUPA/EReporting/. A new Surcharge Transmittal Report (Report 1) will be developed so that CUPA's may disclose the amount specifically intended for the electronic reporting surcharge.]</p>
3	<p>The CUPA is not accurately tracking and reporting information requested on the Annual Single Fee, Inspection, and Enforcement Summary Reports 2, 3, and 4. Examples are included below.</p> <p>This was identified as a deficiency in the July 2006 evaluation.</p> <p>a. The "Total Amount Owed to State" column was exactly the same as the "Total Collections Remitted to State" column on the FY 06/07 Annual Single Fee Summary Report 2. Also, on the FY 07/08 summary report, the "total amount of single fee</p>	<p>Beginning May 7, 2009, the CUPA staff will review the instructions for the Annual Summary Reports 2, 3, and 4. Instructions may be found on the Cal/EPA Unified Program Web site at http://www1.calepa.ca.gov/CUPA/Publications/.</p> <p>By September 6, 2009, the CUPA will develop and implement a process to ensure that the information required on the Annual Summary Reports 2, 3 and 4 are obtained and reported as accurately as possible. For any discrepancies, explanations should be noted as footnotes at the end of the report and/or summarized in the annual</p>

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	<p>collected” and the “total collections remitted to state” were blank.</p> <p>b. The number of UST facilities stated on the Annual Inspection Summary Report 3 did not correspond with what was disclosed on the Annual Single Fee Summary Report 2 in both FY 06/07 and 07/08. The total number of regulated facilities disclosed on Reports 2 and 3 for FY 07/08 was incorrect.</p> <p>c. The number of regulated businesses inspected was larger than the number of routine inspections for the business plan program element on the FY 06/07 Annual Inspection Summary Report.</p> <p>d. The return to compliance (RTC) numbers for all program elements did not agree with what was disclosed on the Annual Enforcement Summary Report 4 for the last three fiscal years. No RTC information was reported for the CalARP, UST, and Resource Conservation and Recovery Act large quantity generator (RCRA LQG) rows on the FY 07/08 Annual Inspection Summary Report 3.</p> <p>e. The enforcement actions (informal only) were reported, but no violations information has been entered for all the program elements in the last three fiscal years. Violations information was reported as “0” (zero) regardless of the number of informal enforcements initiated.</p> <p>CCR, Title 27, Section 15290 (a) [Cal/EPA]</p>	<p>self-audit.</p> <p>By September 30, 2009, the CUPA will submit its Summary Reports 2, 3, and 4 to Cal/EPA.</p> <p>[Note: For FY 08/09, CUPA’s must use the new Annual Summary Reports 3 and 4.]</p>
4	<p>The CUPA’s Inspection and Enforcement (I&E) Program Plan does not contain some required elements. The I&E Program Plan is missing the following:</p> <p>a. Identification of all available enforcement options. For example, the administrative enforcement order (AEO) is not included as a formal enforcement option for all the program elements. Also, the red tag for the UST program is not identified, but has been used by the CUPA.</p> <p>b. A description of how the CUPA minimizes or eliminates duplication, inconsistencies, and</p>	<p>By November 10, 2009, the CUPA will revise it’s I&E Program Plan to include all the required elements. Once finalized, submit a copy to Cal/EPA.</p>

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	<p>lack of coordination.</p> <p>CCR, Title 27, Section 15200 (b) [Cal/EPA]</p>	
5	<p>The CUPA is not documenting actions taken by businesses to return to compliance with violations cited in Notices to Comply/Inspection Reports.</p> <p>This was identified as a deficiency in the July 2006 evaluation.</p> <p>Files reviewed, with the exception of two files, did not include any documentation that violations are being corrected.</p> <p>Either the CUPA must provide the business with a self-certification form per it's I&E Program Plan and verify that the RTC certification has been received in order to document compliance or, in the absence of compliance certification, the CUPA must use a follow-up process to confirm that compliance has been achieved. The CUPA has RTC self-certification forms, but this document was not seen in any of the files reviewed.</p> <p>HSC, Chapter 6.5, Section 25187.8; and CCR, Title 27, Section 15200 [Cal/EPA, OSFM, & Cal EMA]</p>	<p>The CUPA will review and follow it's I&E Program Plan. By February 8, 2010, please send examples of RTC or complete follow-up reports.</p>
6	<p>The CUPA has not met the mandated inspection frequency for UST facility compliance inspections. Based on the Annual Inspection Summary Reports, inspection frequencies for the last three fiscal years were 105% (05/06), 73% (06/07), and 77% (07/08).</p> <p>The inspection frequency has not been met in the last two fiscal years due to staff shortage and the reassignment of some staff time to other departmental duties. However, the CUPA has recently increased its staff, including the number of certified UST inspectors from one since the last evaluation in 2006 to a total of four. Therefore, the CUPA is now on schedule with meeting its annual UST inspections. As of the date of the evaluation, the CUPA inspected approximately 85% of its UST facilities for the current fiscal year. The CUPA will be inspecting the remaining facilities by the end of the fiscal year.</p>	<p>The CUPA will conduct compliance inspections for all UST facilities each year.</p> <p>By November 10, 2009, the CUPA will submit a progress report on the inspection frequency.</p>

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	HSC, Chapter 6.7, Section 25288 (a) [Cal/EPA & SWRCB]	
7	<p>The CUPA's operating permit does not contain some UST specific conditions. Some monitoring requirements were missing as part of the conditions of the permit.</p> <p>CCR, Title 23, Section 2712 (c) and (i) [Cal/EPA & SWRCB]</p>	<p>This deficiency was corrected during the evaluation. The CUPA added the following conditions to the UST operating permit:</p> <p>“The owner/operator shall comply with the approved written routine monitoring plan and emergency response plan established for this facility. The monitoring plan, emergency response plan, and a site map (plot plan) showing the required details shall be maintained on site at all times as part of the permit.”</p>
8	<p>The CUPA does not currently collect all of the information shown on the revised UST forms, and is not requiring UST facility owner/operators to complete the new Unified Program Consolidated Forms (UPCF) A, B, and D as part of their annual inspections. Therefore, the CUPA does not have current information on the UST facility to determine if the owner or operator has met the monitoring requirements contained in the new monitoring plan (UPCF-D).</p> <p>The new UST forms (UPCF A, B, and D) were revised and approved with the new requirements of California Code of Regulations title 27 and title 23 that became effective in January 2008. The new forms have additional information that is not captured on previous forms. The CUPA may use their own forms, but the forms must include all the new data elements.</p> <p>HSC, Chapter 6.7, Sections 25288 (a) and 25286 (a); and CCR, Title 23, Section 2711 (a) and (c); and Title 27, Sections 15185 (a) and 15188 [Cal/EPA & SWRCB]</p>	<p>By May 7, 2010, the CUPA will verify that all UST facilities are up-to-date with the new forms.</p> <p>One way to gather the information is to mail out the new UPCF's for UST's during the next round of operating permit renewals or billing cycle or provide the new UPCF's to the owner/operators during the annual inspections (whichever is earlier).</p> <p>Prior to conducting the annual UST inspection, the CUPA will review all paperwork submitted for a Permit to Operate and ensure that the tank and piping systems, and the monitoring methods used are sufficiently described and are appropriate for the system. If the forms are incorrect, the CUPA may either correct the forms or have the facility owner/operator resubmit new forms with the correct information.</p>
9	<p>The CUPA has not submitted quarterly inspection or enforcement reports for RCRA LQG's for the last two quarters.</p> <p>DTSC last received the LQG report from Placer County CUPA for July through September 2008.</p>	<p>Beginning May 7, 2009, the CUPA will submit LQG reports to DTSC and, subsequently, on a quarterly basis thereafter.</p> <p>As a reminder, the reports must be submitted to DTSC quarterly, on February 1, May 1, August 1, and October 15. If the CUPA did not do any inspections or take any enforcement at a RCRA</p>

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	CCR, Title 27, Section 15290 (e) and (g) [Cal/EPA & DTSC]	LQG facility, please submit a notice letting DTSC know that the CUPA did not have any activities to report by sending an email to Asha Arora at aarora@dtsc.ca.gov.
10	<p>The Placer County Emergency Operations Plan (Annex E being the Hazardous Materials Area Plan) has not been reviewed and updated in the past three years. The CUPA should have certified to Cal EMA in 2007 that a review of those sections of the overall plan and the Annex pertinent to hazardous materials was performed and that any necessary revisions were done.</p> <p>HSC, Chapter 6.95, Section 25503(d) [Cal EMA]</p>	<p>The CUPA will provide updates on the revision of the area plan with the quarterly reports to Cal/EPA. The first progress report is due on November 10, 2009.</p> <p>Upon completion of the review and revisions, the CUPA will send a certification to Cal EMA that this has been done.</p>
11	<p>Annex E to the Placer County Emergency Operations Plan (the Hazardous Materials Area Plan) did not include a summary reporting form. This form must identify the location of each area plan element specified in title 19 of the California Code of Regulations, sections 2722-2728, whether it is in Annex E or in the main body of the Emergency Operations Plan.</p> <p>CCR, Title 19, Section 2720(d) [Cal EMA]</p>	The CUPA will submit a copy of the summary reporting form to Cal EMA at the time the certification of area plan review from deficiency 10 is submitted.
12	<p>The CUPA is not obtaining business plans from all businesses subject to the business plan program. This was identified as a deficiency in the July 2006 evaluation.</p> <p>Specifically, agricultural handlers are neither regulated under the business plan program nor properly exempted from the provisions of this program. These agricultural handlers are not being inspected under the provisions of the business plan program.</p> <p>HSC, Chapter 6.95, Section 25503.5(a) [Cal EMA]</p>	By May 7, 2010, the CUPA will develop a plan to evaluate which agricultural handlers are subject to the business plan program and take steps to either regulate these businesses or properly exempt them from the program. The CUPA should document progress in correcting this deficiency with each quarterly report. The first progress report is due on November 5, 2009.

Certified Unified Program Agency (CUPA)
Evaluation Summary of Findings

CUPA Representative

Virginia Lineberry
(Print Name)

Original signed
(Signature)

Evaluation Team Leader

Jennifer L. Lorenzo
(Print Name)

Original signed
(Signature)

PROGRAM OBSERVATIONS AND RECOMMENDATIONS

The observations provided in this section address activities that are not specifically required of the CUPA by statute or regulation. The recommendations, if any, are provided for continuous improvement and it is the CUPA's decision whether or not to follow the recommendations.

1. **Observation:** The CUPA's I&E Program Plan contains outdated information on the following: Aboveground Petroleum Storage Act (APSA)/Spill Prevention Control and Countermeasure Plan requirements, references to the Uniform Fire Code and OES, and some inappropriate citations to laws/regulations.

Recommendation: Cal/EPA, OSFM, and Cal EMA recommend that the CUPA update the I&E Program Plan to reflect the current APSA requirements, the California Fire Code and Cal EMA (instead of Uniform Fire Code and OES, respectively), and appropriate citations to laws/regulations. Cal/EPA also recommends that the CUPA's inspection staff review (or be briefed by CUPA management on) the I&E Program Plan annually and/or whenever substantial changes are made as part of the staff's ongoing training.

2. **Observation:** The CUPA's Web site contains resources for the public and regulated community, including an overview of the CUPA programs, UPCF's, fee schedule, and links to pertinent sites. However, some information and forms were outdated. Also, links to the UST forms were not functional.

Recommendation: Cal/EPA recommends that the CUPA update the 1999 UPCF's (business owner/operator identification, business activities, and hazardous materials inventory forms) in PDF to the new forms and also update the fire code references/citations to the current fire code (2007 California Fire Code) on the CUPA's APSA Web site. For non-functional links to forms, the CUPA may refer to the Cal/EPA Unified Program Publications and Forms site at <http://www1.calepa.ca.gov/CUPA/Publications/>. The CUPA could also include additional information on the tiered permit and CalARP programs. Lastly, the CUPA is encouraged to have their customer service survey readily available on its Web site.

3. **Observation:** In addition to the APSA information provided on the CUPA's Web site, the CUPA's staff has also provided APSA outreach materials to the regulated businesses during routine inspections. The CUPA will also be hosting the APSA training that will be held in Roseville in October 2009.

Recommendation: The CUPA is encouraged to continue to keep up the good work.

4. **Observation:** The CUPA's inspection checklists/reports for the hazardous materials business plan, CalARP, and UST programs do not distinguish among Class I, Class II, and minor violations.

Recommendation: Cal/EPA recommends that the CUPA modify its inspection checklists/reports so that each violation can be classified separately to distinguish between enforcement modes for Class I, Class II and minor violations. Classification of the violations will also assist in reporting information on the Annual Enforcement Summary Reports.

Additionally, Cal/EPA recommends that the CUPA provide violation classification training to its inspection staff. One reference is the June 2006 "Violation Classification Guidance for Unified Program

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Agencies,” which is available on the Cal/EPA Unified Program Web site at <http://www.calepa.ca.gov/CUPA/Documents/Inspection/ViolationGuide.pdf>. The CUPA is also encouraged to attend either the northern region or Bay Area CUPA forum meetings and communicate with other CUPA’s to obtain input regarding classification of violations for the programs and for coordination, consolidation and making consistent the Unified Program. For additional training in violations classification for the hazardous waste generator program, contact Ms. Asha Arora of DTSC at (510) 540-3874 or aarora@dtsc.ca.gov for information.

- 5. Observation:** The CUPA maintains a tracking sheet of general trainings attended by its staff. The staff continues to receive on-going training; however, not all trainings pertinent to the Unified Program are documented on the tracking sheet.

Recommendation: Cal/EPA recommends that the CUPA record the ongoing staff trainings and at a minimum, those relevant to the Unified Program. Indicate the name of the classes or trainings attended at conferences or seminars that provide multiple classes or training events.

- 6. Observation:** OSFM observed that the CUPA generally forwards copies of business plan documents and information to local fire agencies that are responsible for protection of public health and safety and the environment immediately upon receipt or within 15 days as required by law. In addition, based on interviews with four fire agencies within the county, fire agencies have been satisfied with the business plan information from the CUPA.

Recommendation: Continue to submit the business plans to fire agencies. OSFM encourages the CUPA to meet with its fire chiefs at least once a year to ensure coordination, consolidation, and making consistent the Unified Program. For example, when meeting with Roseville City CUPA, the CUPA may also invite its fire chiefs. In such meetings, the CUPA may ask if the fire agencies require any additional information on the business plan per the Hazardous Materials Management Plan and Hazardous Materials Inventory Statement requirements of the California Fire Code.

- 7. Observation:** The CUPA’s Unified Program policies and procedures contain some outdated information.

Recommendation: Cal/EPA recommends updating the following items in the CUPA’s policies and procedures:

- The addresses to which the CUPA-to-state reports (Surcharge Transmittal Reports and Annual Summary Reports) are sent.
- Report 5 is no longer required to be submitted to the state.
- UST Report 6 is now required to be sent semi-annually.

Also, the CUPA needs to add into its records retention policy that annual self-audit reports (including the annual CalARP performance audits) are to be maintained for at least five years.

- 8. Observation:** The CUPA’s 2007-2008 CalARP performance audit did not address all of the elements required by title 19 of the California Code of Regulations, section 2780.5 (b). Specifically, subsections 1 (audits), 2 (RMPs requested), 5 (new or modified stationary sources) and 8 (exemptions)

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were not addressed. Additionally, the report stated that, when violations were noted, the CUPA took action to assure compliance, but then further stated that no enforcement action was taken.

Recommendation: Cal EMA recommends that all of the elements of 2780.5 (b) be addressed, even if the answer to the question is “none.” This assures that none of the elements was inadvertently skipped. With respect to the enforcement question, the CUPA should take credit for any informal enforcement it took to ensure compliance.

- 9. Observation:** While the draft “Annex E” document to the Placer County Emergency Operations Plan (which forms the functional hazardous materials area plan) mentions pesticide drift on pages E3, E4, E8 and E10, it does not address in detail the pesticide drift requirements mandated by Senate Bill 391 (Florez).

Recommendation: Cal EMA recommends that all of the pesticide drift “protocols” be incorporated into either Annex E or the body of the Emergency Operations Plan prior to adoption of the latest revision. Specifically, the following elements need to be addressed:

- California Code of Regulations, title 19, section 2723 (d) – medical reimbursement eligibility;
- California Code of Regulations, title 19, section 2723 (f) – incorporation of agricultural commissioner and local health officer duties;
- California Code of Regulations, title 19, section 2723 (g) – access to pesticide-specific information;
- California Code of Regulations, title 19, section 2724 (e) – access to health care; and
- California Code of Regulations, title 19, section 2726 (d) – access to services in native language.

- 10. Observation:** Cal EMA accompanied a CUPA inspector on a business plan inspection in Rocklin. The inspection covered all of the elements of the inventory, emergency response plan, training, waste generation and special waste. Only minor violations were documented.

EXAMPLE OF OUTSTANDING PROGRAM IMPLEMENTATION

- 1.** Over the past two years, the CUPA has done an excellent job of bringing the CalARP program up to speed. All of the stationary sources have submitted Risk Management Plans (RMP’s), all RMP’s are undergoing formal evaluation review, and all stationary sources have been inspected. Additional inspections are scheduled for 2009.